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EXAMINER

PATEL, RAMESH B

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 12/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/918,177

Applicant(s)

KAY ET AL.

Examiner

Ramesh B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 November 0203.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 21-26 and 39-41 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**Response to the Election requirement and detailed Action**

1. Claims 1-41 are presented for examination. Restriction/Election to claims 1-41 is maintained and repeated as follows:

**Election/Restrictions**

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-20 and 27-30, drawn to an industrial controller system and a method for providing an industrial controller with functionality, classified in class 700, subclass 19.
  - II. Claims 21-26, drawn to an editor for developing programs for controlling the operation of an industrial controller system, classified in class 700, subclass 87.
  - III. Claims 31-38, drawn to a method for executing an industrial control program utilizing a file system residing on the industrial controller, classified in class 700, subclass 86.
  - IV. Claims 39-41, drawn to a system having a plurality of controllers, classified in class 700, subclass 20.
3. The inventions are distinct, each from the other because of the following reasons:  
Inventions I, II, III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have

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different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions Claims 1-20 and 27-30, drawn to an industrial controller system and a method for providing an industrial controller with functionality, classified in class 700, subclass 19. Claims 21-26, drawn to an editor for developing programs for controlling the operation of an industrial controller system, classified in class 700, subclass 87. Claims 31-38, drawn to a method for executing an industrial control program utilizing a file system residing on the industrial controller, classified in class 700, subclass 86. Claims 39-41, drawn to a system having a plurality of controllers, classified in class 700, subclass 20.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. A telephone call was made to Mr. Amin, Himanshu S. on 11/5/2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. As to applicant's remarks regarding election of group I claims 1-20 and 27-30 with traverse the inventions are distinct and as stated above these inventions are distinct for the reasons given and have acquired a separate status in the art as shown by their different classification and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper as stated in the previous office action mailed 11/24/2003.

#### **Claim Objections**

8. Claim 27 objected to because of the following informalities: claim 27, line 1, the terms "a an" should be "an" and claim 27, line 2, the terms "a file system residing on the industrial controller," should be "a file system residing in the industrial controller,".

Appropriate correction is required. Applicant is requested to check entire disclosure and make appropriate correction as required.

**Claim Rejections - 35 USC § 102**

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 and 27-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Papadopoulos et al. (US Patent 6,587,884).

As to claims 1 and 27, Papadopoulos teaches the invention including an industrial controller system and method for providing an industrial controller with functionality associated for utilizing a file system residing on the industrial controller, comprising: a file system residing in a program memory of an industrial controller, the file system having a plurality of file system services (see, see, abstract and figures 1-2 and col. 3, lines 20-39); and an execution engine residing in the program memory of the industrial controller, the execution engine adapted to interpret code from an industrial control program, the industrial control program including at least one instruction utilizing

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one or more of the plurality of file system services (see, abstract and figures 2-3 and col. 4, lines 1-40).

As to claims 2-4, Papadopoulos teaches the system and the method wherein the file system and the execution engine being adapted to load user defined routine files upon loading an industrial control program having one or more header instructions for including a user defined routine file, the included user defined routine file being loaded into the same program space as the industrial control program and the user defined routine files being stored at a memory device separate from the program memory and the memory device being located at one of the industrial controller and a remote location from the industrial controller (see, abstract and figures 1-3).

As to claims 5-7, Papadopoulos teaches the system and the method wherein the file system and the execution engine being adapted to load one or more recipe files into an executing industrial control program upon executing a load instruction in an industrial control program, the recipe files being stored at a memory device separate from the program memory and the memory device being located at one of the industrial controller and a remote location from the industrial controller (see, figures 2-4 and col. 2, lines 4-44).

As to claims 8-9 and 28-30, Papadopoulos teaches the system and the method wherein the file system and the execution engine being adapted to load an operating

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system file into program memory, the operating system file corresponding to the development of the industrial control program the operating system file and the industrial control program file being saved concurrently during the development of the industrial control program wherein the industrial control program and the operating system file are transferred to the industrial controller together (see, abstract and figures 2-4 and col. 2, lines 4-44).

As to claims 10-13, Papadopoulos teaches the system and the method wherein the file system and the execution engine being adapted to log measured data into a file upon executing an instruction in an industrial control program to record the measured data the file system and the execution engine being adapted to retrieve measured data from a file upon executing an instruction in an industrial control program to load the measured data the measured data file being stored at a memory device separate from the program memory and the memory device being located at one of the industrial controller and a remote location from the industrial controller (see, abstract and figures 2-4 and col. 2, lines 4-55 and col. 3, lines 40-67).

As to claims 14-17, Papadopoulos teaches the system and the method wherein the file system and the execution engine being adapted to log trend data into a file upon executing an instruction in an industrial control program to record the trend data the file system and the execution engine being adapted to retrieve trend data from a file upon executing an instruction in an industrial control program to load the trend data the trend



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data file being stored at a memory device separate from the program memory the memory device being located at one of the industrial controller and a remote location from the industrial controller (see, abstract and col. 3, lines 40-67).

As to claims 18-19, Papadopoulos teaches the system and the method wherein the file system and the execution engine being adapted to receive a communication command for selecting a running industrial control program from amongst a plurality of industrial control programs residing on the industrial controller the communication command being transmitted from a remote location over the Internet (see, abstract and col. 2, lines 4-55 and col. 3, lines 40-67).

As to claim 20, Papadopoulos teaches the system and the method wherein the industrial control program being a ladder logic program (see, abstract and figures 2-4).


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh B. Patel whose telephone number is 703-308-6673. The examiner can normally be reached on M-Th; 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri can be reached on 703-305-0282. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-305-3718 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

  
Ramesh B. Patel  
Primary Examiner  
Art Unit 2121

December 15, 2003